

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 JULIO CESAR NAVAS,

Case No.: 3:19-cv-00249-MMD-WGC

4 Plaintiff,

Order

5 v.

6 JEROM M. POLAHA, *et al.*,

7 Defendants.

8
9 Plaintiff Julio Cesar Navas is an inmate within the Nevada Department of Corrections
10 (NDOC), and filed his civil rights complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1-1.) The
11 Local Rules of Practice for the District of Nevada provide: “Any person who is unable to prepay
12 the fees in a civil case may apply to the court for authority to proceed *in forma pauperis* (IFP). The
13 application must be made on the form provided by the court and must include a financial affidavit
14 disclosing the applicant’s income, assets, and liabilities.” LSR 1-1. When a prisoner seeks to
15 proceed without prepaying the filing fee, in addition to filing the affidavit, the prisoner is required
16 to submit a certified copy of the trust fund account statement (or institutional equivalent) for the
17 six-month period immediately preceding the filing of the complaint. The statement must be
18 obtained from the appropriate official at the prison or detention facility where the prisoner is or
19 was confined. 28 U.S.C. § 1915(a)(2).

20 When a prisoner brings a civil action IFP, the prisoner is still required to pay the full amount
21 of the filing fee. The court is required to assess, and when funds exist, collect an initial partial
22 payment of 20 percent of the greater of: (A) the average monthly deposits in the prisoner’s account
23 or (B) the average monthly balance in the prisoner’s account for the six-month period immediately
preceding the filing of the complaint. Thereafter, whenever the prisoner’s account exceeds \$10,

1 the prisoner must make monthly payments of 20 percent of the preceding month's income credited
2 to the prisoners account until the filing fees are paid. The funds are to be forwarded by the agency
3 having custody of the prisoner. 28 U.S.C. § 1915(b)(1), (2).

4 The regular filing fee is \$400, consisting of the \$350 filing fee and a \$50 administrative
5 fee. If an inmate does not qualify for IFP status, he must pay the full \$400 filing fee. If the inmate
6 qualifies for IFP status, the \$50 administrative fee is waived, and the inmate will only pay the \$350
7 filing fee over time.

8 The Clerk shall **SEND** Plaintiff a copy of the instructions and application to proceed IFP
9 for an inmate. Plaintiff has **30 days** from the date of this Order to either file his completed IFP
10 application or pay the full \$400 filing fee.

11 Once Plaintiff has filed his completed IFP application or paid the filing fee, the court will
12 screen the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) or 28 U.S.C. § 1915A, or both. Both
13 require dismissal of a complaint, or any portion thereof, that is frivolous or malicious, fails to state
14 a claim upon which relief may be granted, or seeks monetary relief against a defendant who is
15 immune from such relief. If the complaint is dismissed on screening, there will be no refund of the
16 filing fee, and an inmate proceeding IFP is still required to pay the \$350 filing fee over time.

17 **IT IS SO ORDERED.**

18 Dated: July 19, 2019.

19 

20 William G. Cobb
21 United States Magistrate Judge
22
23